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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/055,421      | 01/22/2002  | Norbert Dicken       | PHNL 010076         | 7249             |

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11/26/2002

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EXAMINER

CHOI, JACOB Y

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 11/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/055,421

Applicant(s)

DICKEN ET AL.

Examiner

Jacob Y Choi

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 3, 4, 7 & 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Azuma (USPN 5,161,880).

Regarding claim 1, Azuma discloses the luminaire (Figure 3) having a housing (22) for accommodating at least one tubular lamp (21), which housing (22) has a light emission window (30) for illuminating the object and a side wall (23A, 23B) transverse to the light emission window, the light emission window (30) being provided with a diffuser (30), and wherein a curtain (28) is provided between the tubular lamp (21) to be accommodated and the diffuser (30) at a distance from the diffuser (30) for obtaining a homogeneous light distribution in at least two stages, with the result that the light emission window shows an evenly illuminated surface.

Note: the functional recitation that “a homogeneous light distribution in at least two stages, with the result that the light emission window shows an evenly illuminated surface” has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a “means” for performing the specified function, as set forth in 35 USC § 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claim 2, Azuma discloses the curtain shows a variation in light transmittance such that the light transmittance of the curtain is chosen to be smaller directly opposite a location where the tubular lamp is present during operation than farther removed from the lamp.

Regarding claim 3, Azuma discloses the light transmittance of the curtain in the location where the light transmittance is smallest amounts to approximately 50 percent of the light transmittance of the curtain where the light transmittance is greatest.

Regarding claim 4, Azuma discloses the curtain has a variation in layer thickness so as to obtain the variation in light transmittance.

Regarding claim 7, Azuma discloses the housing having a rear wall where the rear wall is provided with a reflecting coating (24) at a side facing the light emission window.

Regarding claim 8, Azuma discloses the sidewall is manufactured from a light-transmitting material (inherent).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 6 & 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azuma (USPN 5,161,880).

Regarding claims 5 & 6, Azuma discloses the claimed invention, explained above. Azuma discloses the claimed invention except for the curtain comprises a certain material such as calcium halophosphate and calcium pyrophosphate or fluoro-copolymer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to selected known material such as calcium halophosphate and calcium pyrophosphate or fluoro-copolymer to obtain the curtain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 10-12, Azuma discloses the structural limitation of the luminaire device. It has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961). Therefore, it is obvious that Azuma discloses the luminaire device illuminated the object, such as a motor vehicle and shows specular reflection.

Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Azuma (USPN 5,161,880) in view of Wendel (USPN 5,669,700).

Regarding claim 9, Azuma discloses the claimed invention, explained above. Azuma disclose the claimed invention except for the plurality of the luminaire. Wendel teaches that it is known to have plurality of luminaire in single housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the luminaire housing with plurality of luminaire, since it has been held that

mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ohtake et al. (USPN 5,384,658) – plastic optical member and light quantity controlling member each having a light diffusing layer on its surface

Long et al. (USPN 5,961,196) – flash device for dye transferring

Tenmyo (USPN 6,400,905) – lighting angel variable lighting device

Leidig (USPN 5,934,779) – reflector and a reflector/light source system

Plummer (USPN 4,293,892) – zoom light apparatus

Kirschner (USPN 6,019,476) – full spectrum filtering for fluorescent lighting

D. H. Tuck (USPN 2,330,935) – combined building walls and lighting equipment

T. Lutter (USPN 3,463,914) – lighting arrangement

Finch (USPN 4,164,010) – illuminated bank window

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y Choi whose telephone number is (703) 308-4792. The examiner can normally be reached on Monday-Friday (10:00-7:00).

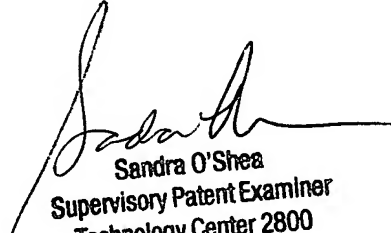
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-7724.

JC  
November 6, 2002



Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800